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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,291	02/10/2004	John R. Fogle	4849.214	5288
7590 05/10/2006				
LaValle D. Ptak Ste. B 28435 N. 42nd St. Cave Creek, AZ 85331			EXAMINER NGUYEN, PHONG H	
			ART UNIT 3724	PAPER NUMBER

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/777,291	Applicant(s) FOGLE, JOHN R.	
	Examiner Phong H. Nguyen	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 11, 12 and 16-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) he has abandoned the invention.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(c) as being clearly anticipated by Legrand (US Pub. 2005/0188547 A1). See Fig. 3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 8-10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Legrand.

Legrand teaches the invention substantially as claimed except for type of plastic being used to make a filament. Using extruded plastic material to make a filament is well known in the art. Choosing a high molecular weight orientable plastic to make a filament to achieve a desired strength of a filament is routine skill in the art. Therefore, it would

have been obvious to one skilled in the art to use a high molecular weight orientable plastic to make a filament since such practice involves in routine skill in the art.

Since Applicant defines "bi-axial orientation" as a result of an extruding process, Legrand meets the claims.

Response to Arguments

5. The Affidavit filed on 02/27/2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Legrand reference.

Applicant filed an Affidavit under 37 CFR 1.131 to antedate Legrand. It is not persuasive. A conception of an invention, though evidenced by disclosure, drawings, and even a model, is not a complete invention under the patent laws, and confers no rights on an inventor, and has no effect on a subsequently granted patent to another, unless the inventor follows it with reasonable diligence by some other act such as filing an application for patent or an actual reduction to practice.

Applicant abandoned his invention since he had his string trimmer line reduced to practice in 1992 but did not apply for a patent. Applicant argues that he did not file a patent application for his invention since no trimming head was available between 04/14/1992 and 05/29/1998 for his new string trimmer line. It is not persuasive. Applicant could have applied a patent for the string trimmer line alone, without in the combination with a trimming head. In fact, there were many patents during that period that claimed the structure of a string trimmer line only. See Mickelson (4,869,055), Mize et al. (4,186,239) and Fogle (5,463,815). Furthermore, Applicant did not have reasonable

diligence to conceptualize and reduce to practice a trimming head being used with his new string trimmer line from 1992 to 1998. Applicant actually worked on his trimming head when Mr. Morabit initiated a business deal on 05/29/1998 for Mr. Morabit's trimmer line.

To sum up, Applicant abandoned his invention and did not have reasonable diligence. Accordingly, the effective date of Applicant's invention is 02/10/2004 but not 04/07/1992.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

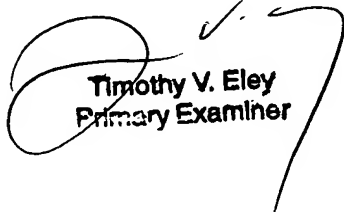
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

May 2, 2006


Timothy V. Eley
Primary Examiner